

# LAW ENFORCEMENT

## *Risky Business*

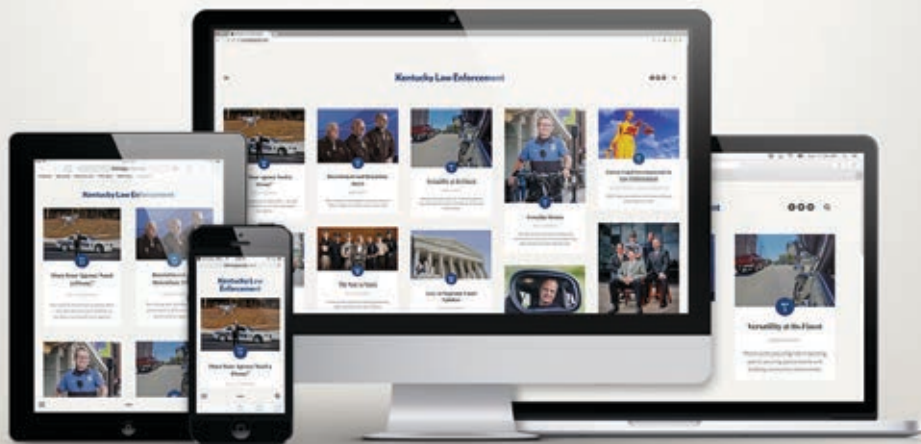


**A Pro-active Risk-management Program Should Protect an Agency's People, Property and Financial Wellbeing**

**PAGE 20**

# REAL LIFE NEEDS OF REAL PEACE OFFICERS

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**MATTHEW G. BEVIN**  
Governor

**JOHN C. TILLEY**  
Justice and Public Safety  
Cabinet Secretary

**MARK FILBURN**  
Commissioner

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**STAFF:**  
Editor & Public Information Officer | **KELLY FOREMAN**  
Art Director | **KEVIN BRUMFIELD**  
Photographer | **JIM ROBERTSON**  
Public Information Officer | **MICHAEL A. MOORE**

**CONTRIBUTORS:**  
**DOUG BARNETT**  
**ANDREA ESLAMI**  
**SHAWN HERRON**  
**RACHEL LINGENFELTER**  
**EDLINIAE SWEAT**



**ADDRESS ALL CORRESPONDENCE TO:**  
KLE Staff, Funderburk Building  
521 Lancaster Avenue • Richmond, KY 40475

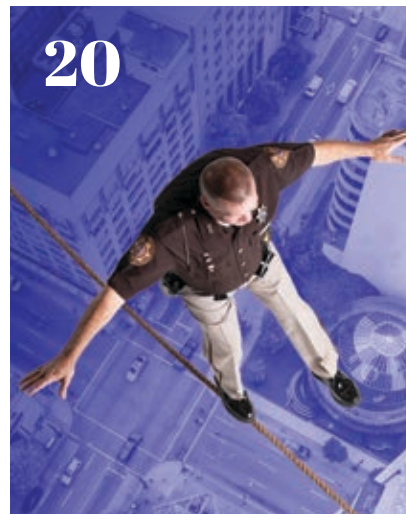
**EMAIL:** [DOCJT.KLENN@ky.gov](mailto:DOCJT.KLENN@ky.gov)

This publication is produced quarterly as a training and marketing tool for the Kentucky law enforcement community as well as public officials and others involved with law enforcement or the oversight of law enforcement. It includes best practices, professional profiles, technology and law updates of practical application and news-to-use for professionals in the performance of their daily duties.

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**ON THE COVER:**  
Richmond officer **JOSH HALE** helped illustrate the need for balancing good policy and effective communication in order to protect an agency. Turn to page 20 to read more about how to develop an effective risk-management plan, reduce training risks and more. Photography by Jim Robertson. Photo Illustration by Kevin Brumfield



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## To Our Readers

On Sept. 13, 2017, this publication featured an article entitled, "Mayberry 2.0." A quote was included in the article referencing an individual. After receiving notice that a factual allegation contained in the quote may have been inaccurate, an in-house investigation was conducted, and we determined that the factual allegation was in error.

Kentucky Law Enforcement Magazine cannot attest to and does not endorse the factual accuracy of all quotes appearing in interviews contained herein. However, upon having conducted internal inquiries and having affirmed the above described inaccuracy, we are issuing this statement in retraction. We apologize for any distress the inclusion of this quote may have caused.



# LAW ENFORCEMENT OFFICERS SHOULD NEVER SUFFER IN SILENCE

**W**e ask law enforcement to remain tough in times of adversity, unshakeable in times of crisis. However, when the dust clears and the threat has abated, I have a personal plea for officers struggling in the aftermath: Don't suffer in silence. There is never any shame in reaching out for help.

Thanks to a new program at the Department of Criminal Justice Training – the Kentucky Post-Critical Incident Seminar (KYPCIS) – support for law enforcement is more available now than ever before.

I was fortunate earlier this year to attend the opening session of KYPCIS and witness the impact of this effort. I heard stories of transformed lives and careers saved. I met officers who reported feeling hope for the first time in years. Some said just knowing the seminar is available provided a sense of relief.

These interventions are both cutting edge and long overdue.

As of writing this column, the Las Vegas massacre remains fresh in the headlines. It's a reminder that, on any ordinary day, law enforcement can face conflict akin to armed warfare.

Even the most routine traffic stops can threaten an officer's life or require the use of deadly force.

In fact, a 2013 study on post-traumatic stress among law enforcement professionals found that 82 percent of male officers and 76 percent of female officers had experienced a traumatic event within the past month. It's no wonder that 15 percent of men and 18 percent of women in the study experienced partial or full symptoms of PTSD.

Meanwhile, a flurry of similar studies also have shown that PTSD increases stress and substance abuse while impairing physical health, sleep and concentration. Such factors have an untold impact on an officer's day-to-day service, and we have a collective

obligation to ensure those on the front lines are functioning at the highest levels – both physically and psychologically.

Kentucky's three-day seminar was modeled after proven programs developed by the FBI and South Carolina Law Enforcement. The depth of each seminar is impressive. It involves a mix of group discussions, one-on-one sessions with mental-health experts, peer mentoring and training.

South Carolina's seminars have helped close to 1,200 officers since inception, along with 215 spouses or significant others. That's a testament to the value of these investments, and I want to commend DOCJT Commissioner Mark Filburn and Deputy Commissioner John McGuire for their vision to bring this program to Kentucky. I also want to thank DOCJT Criminal Investigation Branch Manager Travis Tennill and the many DOCJT staff members who have been instrumental in making it a success.

Kentucky has long been a national leader in law enforcement training. The Post-Critical Incident Seminar is more proof that, in Kentucky, our law enforcement professionals are not alone, are valued and the state has their best interest at heart.

If you or someone you know would benefit from these services, please don't hesitate to step forward. We have your back. 🇺🇸

## KYPCIS

At KYPCIS we understand the sensitive nature of dealing with post-critical incidents. We understand because we've been there and we respect your privacy. Visit us online at [www.kypcis.com](http://www.kypcis.com), or call 1-844-5KY-PCIS to reach out to our staff. We're available 24/7.



BY JOHN C. TILLEY  
SECRETARY, JUSTICE AND  
PUBLIC SAFETY CABINET

JIM ROBERTSON / DOCJT

# DOCJT COMMISSIONER ADDRESSES BASIC TRAINING BACKLOG

**E**nrolling new recruits in DOCJT's Law Enforcement Basic Training Academy in a timely manner was a problem I became aware of before I was appointed commissioner. After joining the agency, addressing the backlog became one of the highest priorities for this staff.

An increase in law enforcement retirements has exacerbated the backlog. We began tackling the problem immediately upon my appointment by increasing the size of each academy class from 28 to 31 recruits. This had little impact. Recently, the backlog reached an unacceptable level. Kentucky had enough newly-hired recruits to fill five basic training academy recruit classes. Those who would be hired after this would face an eight-month wait to begin the basic training academy.

DOCJT staff members researched and developed a more-strenuous plan and requested an emergency meeting of the Kentucky Law Enforcement Council to discuss.

This plan included increasing the number of recruits per class again, as well as increasing the number of academy classes offered throughout the year. Accomplishing this, however, requires a significant increase in instructors. DOCJT also has experienced a number of retirements. Finding and funding enough staff to handle these increases created a secondary challenge.

As a result, we addressed the need for additional instructors by expanding our instructional techniques for in-service training. With the support of KLEC, we are developing more online distance-learning courses. We also are conducting research on streaming courses to other locations. Large courses that serve a significant number of officers, such as the Police Executive Command Course, Current Leadership Issues for Mid-level Executives, Kentucky Investigations and more will continue to be offered as usual.

Utilizing a combination of these types of instruction will enable DOCJT to redirect much-needed staff to train more new recruits.

In September, I presented this emergency plan to KLEC board members, who were extremely receptive and supportive of our plan to address the backlog.

With their blessing, we took action immediately. In October and November academy classes, we increased the class size to 36 recruits. This had an immediate impact and reduced the waiting period by several months. In the 2018 fiscal year budget, we have made

provisions to increase class sizes to 40 recruits per class, as needed.

We are prepared to do what is necessary to ensure our client agencies have access to DOCJT's Law Enforcement Basic Training Academy in a timely manner. We will continue to monitor registration numbers and take action as necessary, up to and including adding extra classes in the 2018 schedule.

However, I want to make it clear that we will NOT sacrifice quality of training for the sake of quantity. Each and every recruit will receive the same attention to detail and should expect the same level of instruction afforded to every individual enrolled in training at DOCJT.

“

**WITH THE SUPPORT OF KLEC, WE ARE DEVELOPING MORE ONLINE DISTANCE-LEARNING COURSES. WE ALSO ARE CONDUCTING RESEARCH ON STREAMING COURSES TO OTHER LOCATIONS. LARGE COURSES THAT SERVE A SIGNIFICANT NUMBER OF OFFICERS, ... WILL CONTINUE TO BE OFFERED AS USUAL.**

### 20-WEEK ACADEMY

Recently I received a request from northern Kentucky police chiefs to review the length of training and any justification on which the 23-week schedule was based.

I informed Justice and Public Safety Cabinet Secretary John Tilley and KLEC Executive Director Fran Root of the request. Secretary Tilley directed me to conduct a review of the 23-week program and make recommendations.

I am continually proud to be a part of Kentucky law enforcement and to have served my community as a police officer. I am praying for your safety daily and encourage you always to Check your 6 – wear your vest and seat belt, slow down, remain situationally aware, stay fit and, most importantly, treat everyone with dignity and respect.

*Read more from Commissioner Filburn regarding the planned 20-week Law Enforcement Basic Training Academy in exclusive content only at [klemagazine.com](http://klemagazine.com).* 🇺🇸



BY MARK FILBURN  
COMMISSIONER, DEPARTMENT OF  
CRIMINAL JUSTICE TRAINING





# SHOCK TREATMENT

## AEDs Help Law Enforcement Save Lives

Written By  
**MICHAEL A. MOORE**

Photography By  
**JIM ROBERTSON**

“He wouldn’t be here today if it wasn’t for the AED,” Murray Police Department Maj. Chris Scott said, referring to a Calloway County Sheriff’s Office dispatcher and longtime friend, who experienced a heart attack more than a decade ago.

“Several years ago (the dispatcher) collapsed in a convenience store, and one of our officers deployed the AED and saved his life,” Scott said.

The Murray Police Department has been carrying automated external defibrillators for about 15 years, and is part of the growing trend of law enforcement agencies carrying the life-saving device.

Thanks to grant funding, several agencies nationwide have found a means to purchase AEDs.

Such is the case for a small-town Kentucky sheriff’s office that got a big boost from nine AEDs recently purchased, thanks to a \$13,000 grant from the Firehouse Subs Public Safety Foundation.

Lincoln County Sheriff Curt Folger said the purchase was made because, more often than not, deputies are the first to arrive on scene of a cardiac event.

“We cover 484 miles of roads. If you were to lay it out end-to-end, it would be like going from here to Florida,” Folger said. “There’s a lot of times that it will take EMS 30 minutes to get to you if they are on one end of the county, and you’re on the other. Time is a huge factor when it comes to someone having a heart attack.”

While there is no statistical information indicating the number of Kentucky law enforcement agencies that utilize AEDs, the Firehouse Subs Public Safety Foundation has awarded grants to purchase the life-saving piece of equipment to more than a dozen departments statewide. Additionally, an informal poll posted to the Department of Criminal Justice Training’s Facebook page revealed nearly 30 agencies in the state use AEDs.

Lincoln County deputies Michael Mullins and Colby Reik spearheaded the agency’s efforts to obtain grant funding to purchase nine AEDs.

(ABOVE) The Lincoln County Sheriff’s Office recently received a \$13,000 grant from the Firehouse Subs Public Safety Foundation. Deputies **COLBY REIK**, left, **MICHAEL MULLINS**, center, and Sheriff **CURT FOLGER**, pose with a couple of the recently-purchased units.

Mullins said AEDs are a must have in Lincoln County.

“We go on any unresponsive call, cardiac arrest, overdose – you never know the full story, so that is why we’re dispatched to it, and we usually get there first,” Mullins said. “It’s a great need due to our EMS situation. There are three different ambulance services in the county right now. They’re trying to consolidate into one service. At times, there’s not an ambulance available because it is at a hospital in another county, and they’re short staffed.”

There are far more deputies in different parts of the county at any given time than there are ambulances, Reik added.

“Dispatch won’t technically call us out on (cardiac events),” said Reik, who is also an EMT with the Lexington Fire Department. “They will make us aware when they dispatch EMS to a code. We need to be aware of it because there are always deputies out in the county, and if we all have AEDs, someone is bound to be close and can get there before EMS.”

The AEDs make it easy for law enforcement personnel to perform the life-saving procedure, Mullins said.

### “COP PROOF”

“It’s cop-proof,” Mullins joked. “It walks you through it. You apply the pad, and it will tell you to check the pulse while it’s reading the rhythm, and to stand clear, because while it is analyzing (the victim), it doesn’t want to read your heart.”

AEDs only will shock certain rhythms the heart may be in, such as ventricle fibrillation – when the heart quivers – and the other is supraventricular tachycardia – when the heart is beating too fast. Additionally, it will only shock when there is no pulse present.

If a shock is advised, Mullins said the officer simply pushes a button and stands back while the machine does the work.

“The pads are designed so that when you take them out of the package, you lay it on the chest,” Mullins said. “If you’re not doing enough CPR, it will tell you to speed it up.”

The Lincoln County Sheriff’s Office purchased ZOLL AED Plus machines. Mullins said the reason was simple.

“It is what our local EMS and fire departments use,” Mullins said. “It makes it compatible and we can switch out pads.”

### TRAINING

Law enforcement personnel receive initial CPR and first-aid training at the Department of Criminal Justice Training, Murray’s Scott said. Once officers return to their departments, their employing agency ensures officers maintain their certification.

“We’ve had several officers who have received the lifesaver award for using AEDs to resuscitate people,” Scott said.

Officers need to be CPR- and AED-certified, Mullins said. Once an officer is AED-certified, he or she must undergo recertification every two years, Mullins said.

Lincoln County has a medical advisor who is an emergency room doctor at hospitals in Danville and Stanford.

“The sheriff’s office has to have a medical advisor, because the AED is considered a pharmaceutical device, and you have to have a prescription for it,” Mullins said. “The sheriff’s office uses the advisor’s license number.”

### LEGALITY

Agencies who use AEDs are protected under the state’s Good Samaritan law, DOCJT Staff Attorney Shawn Herron said.

“Basically, KRS 311.668 provides for any person or entity who uses an AED in good faith and without compensation, shall be immune from civil liability, unless there is true gross negligence or misconduct in the use,” Herron said. “It is also expected under the Good Samaritan law, codified as KRS 411.148, that anyone who provides medical type care should act within the scope of their training.”

Herron stressed that proper training is the key.

“I emphasize, however, the protections require that the person be acting within the scope of their training . . . ergo . . . officers should be trained in AED use,” she said.

Herron added that under state law, agencies that have AED are required to inform local EMS officials and dispatch centers regarding the location and type of device they are using.

### COST

The cost of AEDs isn’t cheap, especially for smaller agencies.

The ZOLL machine costs between \$1,000 and \$1,200 each, Mullins said. The Firehouse grant covered the cost of the machines for Lincoln County.

Other cost factors are the one-time use pads. Adult pads cost an average of \$60 each and have a shelf life of two years. Pediatric pads cost about \$80 each, Mullins said.

“That’s the biggest expense with the AEDs,” Mullins said.

Sheriff Folger said that even if the machine saves just one life, it is well worth the cost.

“If we can save a life and get someone stable enough to be transported, it’s just an added benefit to our residents,” the sheriff said. “I hope we never have to use them. However, with us having them, it gives the patient a greater chance of survival.”



## The Life-Saving Importance of AEDs

Here are some reasons why law enforcement agencies are investing in AEDs:

- Defibrillation within three minutes of sudden cardiac arrest increases the chances of survival to 70 percent. Shock within one minute of collapse raises the survival rate to 90 percent.
- Calling 911 is necessary, but the wait for first responders may take too long. The average call-to-shock time in a typical community is nine minutes.
- CPR alone saves just 9 percent of sudden-cardiac-arrest victims.
- Although AEDs may be accessible to the community, bystanders may be reluctant or unaware of how to use them. Law enforcement officers are typically better equipped to provide emergency medical treatment than the public.

Sources: cardiainscience.com and americanaed.com





# UNDER ATTACK

SITUATIONAL AWARENESS KEY IN AVOIDING, SURVIVING AMBUSHES

**M**cCracken County Deputy Jerry Jones' situational awareness was key in saving his life during a domestic violence call in March 2014.

On that March evening, the Paducah-McCracken County 911 received a call from a male alleging his wife had assaulted him. Jones was soon dispatched to the call.

Prior to arriving at the scene, Jones learned through the public-safety dispatcher that the caller had a prior assault conviction on a police officer. This caused the veteran deputy to approach the scene differently.

"I treated my arrival on scene with caution," Jones said. "I parked my marked cruiser on the edge of the driveway instead of pulling all the way up to the house." The absence of activity in the area was "unsettling" and Jones used his flashlight to scan the area.

"Upon making contact at the front door with the family, no one knew anything that was alleged to have gone on," Jones said. "This was troubling to me."

Then it happened.

"I heard a round snap by us; I called 'Shots fired!' over the radio," Jones said, recalling the incident. "The round left dust in the air from the drywall it passed through."

Jones was unable to determine whether the shot came from inside or outside the home.

"I had my pistol out and was attempting to cover a hallway to our front left," he said. "I had the wife and children get behind me so I could provide cover to them."

Less than a minute later, backup arrived.

"Sgt. Todd Ray was already en route to the scene as backup," Jones said. "At the call of shots fired, he stepped up his response. He entered the residence with a rifle and assisted me in holding the position I had established. The next back-up unit arrived about three minutes later. We used that [deputy] to evacuate the wife and kids to a safer location."

It turned out the perpetrator had called 911 to report a domestic-violence incident for the sole purpose

of luring officers to the scene with the intent to inflict harm on them, Jones said. It was determined the man had fired a .270-caliber rifle at Jones.

"(The subject) was in a concealed position outside his house where he had set up the ambush," Jones said. "Based on his concealed position, I believe he had banked on the officer parking in the driveway, and this was the first factor that ruined his plan to kill an officer upon arrival."

## DISTURBING TREND

Thanks to training and his situational awareness, Jones went home to his family that night. Many law enforcement officers across the nation haven't been as fortunate as the McCracken County deputy.

According to a Nov. 2, 2016, article in USA Today, there has been a 167 percent increase in peace officer ambush incidents over a two-year period. The article cites statistics from the National Law Enforcement Officers Memorial Fund, which tracks police fatalities.

According to the NLEOMF, 40 law enforcement officers lost their lives between 2014 and 2016 in ambush-style attacks.

Kentucky State Police Deputy Commissioner Alex Payne likens the ambush-style attacks to a hunter seeking out their prey.

"It's no different than a successful deer hunter who goes about planning a hunt," Payne said. "You're going to find out where the animal eats, where it sleeps and you may find out where the animal gets a drink of water. You're going to find it in these locations, or you're going to catch it in between traveling from one location to the other."

Payne calls it "hunting 101."

"With those statistics, that is what you're saying right there," he said. "Somebody has chosen a police officer to be a prey animal and they are hunting."

According to a 2012 study from The International Association of Chiefs of Police, four factors define an ambush. Those are:

- The element of surprise
- Concealment of the assailant, their intentions, or weapon
- Suddenness of the attack
- A lack of provocation

## AMBUSH CLASSIFICATIONS

The IACP study says ambushes are classified in two ways – entrapment and spontaneous.

Spontaneous ambushes are crimes of opportunity. They are unprovoked attacks without long-term planning. Between 1990 and 2012, 68 percent of ambushes against law enforcement officers were spontaneous, according to the study.

Thirty-two percent of entrapment ambushes are premeditated. These are what most people think of when they hear the term ambush. This is where the offender lures an unsuspecting police officer into a location for the sole purpose of attacking him or her.

A recent example of this type of attack in Kentucky occurred in May 2013, when Bardstown Police Officer

“**IF YOU GET REALLY GOOD AT DOING THE BASICS, WHETHER IT BE ROOM-CLEARING, USING STOPS PROCEDURES ON TRAFFIC STOPS, OR FOCUSING ON SCORING HITS UNDER ALL CONDITIONS WITH A PISTOL OR RIFLE, WHEN YOU NEED THE SKILLS THE MOST, THEY ARE THERE AND YOU DON'T HAVE TO STOP AND THINK. THAT'S THE STUFF THAT MATTERS.**

— JERRY JONES, MCCRACKEN COUNTY SHERIFF'S DEPUTY



(OPPOSITE) McCracken County Sheriff's Deputy **JERRY JONES** stands in front of the home where he was shot at during a March 2014 ambush. Jones was responding to a domestic-violence call at the time of the shooting.

(LEFT) DOCJT Basic Training Recruit Class 486 member **WILLIAM HARRISON**, from the Pulaski County Sheriff's Office, participated in a course designed to teach recruits tactics during an ambush-style attack. Class 486 graduated on Oct. 20.

Written By  
**MICHAEL A. MOORE**

Photography By  
**JIM ROBERTSON**





(TOP) Department of Criminal Justice Training Instructor **SHAWN MAXIE**, center, speaks with DOCJT Basic Training Class 486 members **CALEB HOLLOWAY**, left, from the Owensboro Police Department, and **ZANE GLASS** with the Franklin Police Department during the Patrol: Counter-Ambush Practical Exercises course taught in October.

(ABOVE) DOCJT Basic Training Recruit **KRISTINA HUEBNER**, with the Boone County Sheriff's Office, surveys the scene during the October ambush training.

Jason Ellis was murdered while removing a limb from the roadway.

"That was tough," Payne said. "(Police officers) have the mindset that somebody is going to get hurt if this stays on the road. So they're going to get out of their vehicle and clear the obstruction."

### THE OFFICERS AND ASSAILANTS

A profile of an ambushed officer, according to IACP, indicates the average age is 38 with 11 years on the job. They are of average build and the ranks are wide-ranging. The most common officer ambushed is one assigned to patrol (38 percent). Deputy sheriffs and sergeants rank the next highest in probability with 17 and 15 percent, respectively.

The study shows that 82 percent of the officers were alone at the time of the ambush. Fifty-five percent were assigned to a one-officer patrol vehicle at the time of the attack. Another 12 percent were on foot, and 10 percent were in two-officer vehicles. The rest were detectives, undercover, on special assignment or off-duty.

According to IACP, three-quarters of the assailants have criminal records. Of those, 40 percent have a violent criminal record, and more than a quarter are under judicial supervision, such as probation and parole, at the time of the assault.

Additionally, 1-in-4 of the assailants has a prior relationship with the officer in the incident, including personal interactions and previous arrests.

Some 83 percent of the assailants acted alone. Nine percent of the time, there were two assailants, and 8 percent of the time, there were three or more perpetrators.

The weapons of choice are guns (36 percent) and the hands (35 percent) according to the IACP study. Twenty-six percent of other devices (ranging from blunt objects to motor vehicles) were used, and knives were used 3 percent of the time.

Of the guns used in the ambushes, 51 percent were handguns.

### SITUATIONAL AWARENESS

Keys in Jones surviving the March 2014 ambush were his instincts and awareness. Department of Criminal Justice Training patrol tactics Instructor Andy Wilson said being aware of your surroundings goes a long way in eliminating the possibility of becoming an ambush victim.

"If you start seeing anomalies when you're responding to a call, be aware of it," he said. "For example, if there are no kids on the street and normally there are kids out, or if there are obvious indicators, be aware of it."

Staggering one's routine can also disrupt would-be perpetrators, Wilson said.

"It's very common when we start our shift, and we start our route covering our assigned sector; we take the same route," Wilson said. "Even if we don't mean to, we inadvertently end up following the same roads every day and we become predictable."

Officers need to understand that awareness is vitally important, Payne said, citing the November 2009 attack in Seattle, Wash., which claimed the lives of four police officers.

"They're sitting in (a coffee house) on a break, and unfortunately, they didn't realize that when you're wearing the uniform, you're never on break," Payne said. "At the end of the day, it's being aware of where you're at constantly while you're out there in uniform. It's simple things. Like where you stop to get a cup of coffee, or where you stop to use the facilities out in the county. It's a shame we have to think in those terms just because of the clothes we wear. But you're now a target for these individuals."

Payne said hyper-vigilance is key for officers.

"It's not hard to find us," he said. "That is why you have to have the hyper-vigilance, and really be aware of what is going on around you."

Payne acknowledged that oftentimes, it is difficult to be hyper-vigilant and approachable at the same time.

"We still have to make ourselves available and approachable to the public," he said. "However, we still have to keep our heads up and eyes forward."

### SOBERING REALITY

The March 2014 experience has stuck with Jones, who said he uses it as a teaching point to other deputies.

"My approach has changed from the perspective that I double-down on practicing what I preach," Jones said. "I am a weapons and tactics instructor for the

## Anti-Ambush Technology Assists Law Enforcement

With ambushes on police officers on the rise, some companies have come up with technology to aid those in law enforcement.

According to a February 2017 article on [policeone.com](http://policeone.com), Dodge has added a new update to its 2017 Dodge Charger Pursuit designed to help protect law enforcement officers from ambush attacks.

According to the article, once the system is activated, any movement will trigger an alarm sound inside the car, the windows will roll up, the doors will lock and the taillights will flash.

Department of Criminal Justice Training Patrol Tactics Instructor Andy Wilson said the new technology is a great tool, but it has its drawbacks.

"I'm from Clarksville, Tenn., and those sensors are very valuable, but they're also more expensive," he said.

Wilson said regardless if the police vehicle is equipped with sensors or not, due diligence is the best way to avoid ambush situations.

"We don't want to be in the situation where a sensor has to alert us that somebody is upon us," Wilson said. "We want to catch them well before they get to us."

department. I use this event to always try to ensure that I use textbook tactics in fluid events."

Jones' event proves there is no such thing as a routine call.

"If you get really good at doing the basics, whether it be room-clearing, using STOPS procedures on traffic stops, or focusing on scoring hits under all conditions with a pistol or rifle, when you need the skills the most, they are there and you don't have to stop and think," Jones said. "That's the stuff which matters."

In the wake of the incident, Jones' assailant was initially offered at a 10-year deal, but the circuit judge rejected it saying it wasn't enough for his role in planning and attempting to murder police officers, Jones said. The man eventually plead guilty and received a 15-year in prison sentence. 🇺🇸

DOCJT Basic Training Recruits **HOLLOWAY**, left, and **GLASS** participated in the hands-on practical during the Patrol: Counter-Ambush Practical Exercises in October.







# EVERYDAY HERO

Fulton County Sheriff's Deputy

**DEREK GOODSON**

Written By  
MICHAEL A. MOORE

Photography By  
JIM ROBERTSON



Fulton County Sheriff's Deputy Derek Goodson has led an interesting life. Born and raised in Chicago, Goodson moved to western Kentucky just after high school. From 1992 through 1996, Goodson worked in the public-safety sector as an emergency dispatcher, an EMT for an ambulance service, a volunteer firefighter and a deputy jailer. In 1996, Goodson began his law enforcement career with the Clinton Police Department in Hickman County. 'They gave me a badge and gun and paid me \$5.25 an hour with no benefits whatsoever.' His agency polices a unique geographical feature in the New Madrid Bend. In order to access the Bend, deputies have to drive through a portion of Tennessee. That one facet makes life interesting for Goodson and other deputies in Kentucky's western most county, located on the banks of the Mississippi River.

**THE NEW MADRID BEND IS MOSTLY FARMLAND. SOME** families live out there. I think there are five families. We don't have a lot of calls down there. We try to go over there and drive through periodically. Much of what you get at the Bend is log-truck problems, traffic problems and things like that. We get many complaints about truck drivers tearing up land or they're somewhere they're not supposed to be. There aren't a lot of places out there to begin with. The main road goes into the Bend. You have to go through Tiptonville and crossover into Tennessee for several miles in order to swing back up into Kentucky. It's just a little area.

**YOU HAVE TO HAVE A GOOD WORKING RELATIONSHIP** with the sheriff's offices in Lake and Obion counties (Tennessee). If something happens down there in the Bend, Lake County has always been good about sending deputies out there to stand-by because they can get there faster than we can.

**IT'S THE SAME THING IN OBION COUNTY. WE HAVE THE** city of Fulton in this county. It's right on the state line. The state line runs through town. It's actually one big town, but you have Fulton, Ky., and South Fulton, Tenn. It's a logistical nightmare when you're a cop. People will try to determine if you were a Kentucky cop or Tennessee cop, and depending on the answer, they will cross the street and be in another state. You need to have a good working relationship with Tennessee officers in order to make sure things run smoothly.

**THERE ARE ALL KINDS OF HORROR STORIES ABOUT THE** city of Fulton back in the day. There were times when an officer or deputy had to do a field sobriety test. We had to say, 'Sir or ma'am, can you step back up here?' What they are doing is getting the person back in the state of Kentucky in order to do the test.

**I'M FROM CHICAGO, SO IT WAS A BIT OF A CULTURE** shock moving down here. The people here are great. My kids go to school here, and I couldn't ask for anything better. You have to have a good working relationship with the community when you have a five-plus person department. In Chicago, if somebody talks to you, you're automatically suspicious of what they're doing. They're pessimistic, and everybody is out to get you. It's very depressing. I'm glad my kids go to school here.

**I LIKE TO TALK AND PROBLEM-SOLVE. YOU CAN DO** that in any career. Patrol is always fun because

you never know what you're going to get into as far as working traffic or working out on the parkway. I like to think I'm multi-faceted. There's not one thing about this job that I like more than another. [Working as a court bailiff] was something new to me when I came to the sheriff's office. You can get a lot of good information in court if you pay attention. It can be a valuable tool, as far as being a sheriff's deputy. I really like people. That's why I got into this line of work, because I can talk to a wall.

**HELPING PEOPLE MAKES ME SMILE. WHEN YOU'VE** made it to the end of a case and somebody says, 'Hey, I appreciate that,' it's a good feeling. It doesn't have to be a case. I can help somebody unlock his or her car, and it makes me smile. We have a great challenge in law enforcement because of all the negative press, but when you see kids coaching youth football, and you have a kid who isn't afraid to come up to you and say, 'Hey, when I grow up, I'm going to be a cop,' I always say, 'Great. Go to college before you make the decision.' When you have kids who are interested and the public is interested in what you're doing, it's a great feeling.

**I'M SURE A COP IN A LARGER CITY CAN ATTEST TO** this, but for us, a major problem has always been that it's one person against the world here. Generally, we will have a deputy out and we might have a special deputy out with that deputy. The city of Hickman might have an officer out and the city of Fulton might have two officers out. If it is 3 in the morning, your backup could be 15 to 20 minutes away, and that's probably the best-case scenario.

**WHEN I WORKED IN HICKMAN, I DIDN'T KNOW THE** town at all, and we had a shooting. Someone drove by a building and he got off about six or seven shots and drove off. [Hickman Police Chief] Tony Grogan and I went up there and, of course, the state police showed up and Fulton police showed up before everyone realized no one was hit. We started looking for shell casings, I'm diagramming the scene and putting down markers, I was stepping back, and all of a sudden the ground was gone. It turned out I fell in a hole about half the size of a desk. One of the man covers sank, it was about four and a half feet deep, and I just fell into this big hole. Everyone saw me. I got out and dusted myself off. I'm glad it happened during the pre-cell phone era, or else, I would be famous for that.



“**HELPING PEOPLE MAKES ME SMILE. WHEN YOU'VE MADE IT TO THE END OF A CASE AND SOMEBODY SAYS, 'HEY, I APPRECIATE THAT,' IT'S A GOOD FEELING. IT DOESN'T HAVE TO BE A CASE. I CAN HELP SOMEBODY UNLOCK HIS OR HER CAR AND IT MAKES ME SMILE.**”





# THE KEYSOR CONUNDRUM

## MAINTAINING AND PROTECTING THE INTEGRITY OF THE ATTORNEY-CLIENT RELATIONSHIP

In 1994, the Kentucky Supreme Court handed down its decision in *Linehan v. Commonwealth*, 878 S.W.2d 8 (1994). In the case, David Wayne Linehan was arrested and indicted for burglary and the rape of his estranged wife. A public defender was appointed to represent Linehan on the charges.

Five months later, pending trial, Linehan attacked his wife again. He partially-incriminated himself and suggested the second attack was to intimidate the victim into recanting her statement regarding the initial attack. Linehan was indicted, and the public defender's office was tasked to represent him in the new charges.

During the pretrial process, Linehan demanded information from the second arrest be suppressed at the planned joint trial because he was denied the right to have his appointed counsel at the second interrogation. However, at the time he gave the second statement, he had not formally been charged and had waived *Miranda*. Although the trial court denied his motion, Linehan made an interlocutory appeal on the issue. (*A trial court's ruling made before the trial has concluded.*)

Ultimately, the Kentucky Supreme Court agreed with Linehan, and held that since he had been

appointed counsel by the time of the second incident, "he could not be subjected to police-initiated interrogation regarding any evidence incriminating him on the charges for which he had counsel, unless his counsel was present."

The Kentucky Supreme Court agreed that in separate trials, his responses to the second interrogation would be admissible, but that it could not be used during a joint trial.

The Court concluded, "The police and prosecutorial authorities are at liberty to question a willing subject about new offenses without regard to whether there is prosecution pending on other charges, whether similar or different in nature. But, they must be cognizant that the evidence thus obtained may not be used to incriminate him on pending charges wherein he is represented, unless his counsel is present."

### PRECEDENT CHALLENGED IN LOUISIANA

*Linehan* remained the law for years. However, in 2009, the U.S. Supreme Court addressed a similar issue in the case of *Montejo v. Louisiana*, 556 U.S. 778 (2009). In the case, Jesse Montejo was charged in a robbery and murder. Although initially he indicated he'd only driven the suspect to the scene, Montejo ultimately admitted

killing the victim during a botched burglary. He was appointed counsel at his initial hearing.

Later that day, he was given *Miranda*, and agreed to accompany the police to locate the murder weapon. During the trip he wrote an apology to the victim's widow, in which he incriminated himself. Only upon his return did he first meet with his attorney. The letter was admitted against him at trial, and he was convicted.

Montejo appealed, first in the state courts and then in the federal courts. He argued that under the case of *Michigan v. Jackson*, 475 U.S. 625 (1986), the letter should have been suppressed. *Jackson* had held that, "if police initiate interrogation after a defendant's assertion, any waiver of the defendant's right to counsel for that police-initiated interrogation is invalid."

In this case, Montejo never actually asserted his right to counsel, but instead, counsel was appointed by the court without a specific request. The Court agreed there could be no presumption that a defendant with appointed counsel would only waive such rights involuntarily. The prior cases were, "meant to prevent police from badgering defendants into changing their minds about their rights," and did not necessarily apply, when in fact, the defendant had never decided to have counsel in the first place.

Therefore, the *Montejo* Court specifically overruled *Jackson*, finding its original policy was well-served by other means. The Court upheld the Louisiana Supreme Court's decision.

### A SHIFT IN PERCEPTION

This shifted the balance on the issue, and resulted in *Keysor v. Commonwealth*, 486 S.W.3d 273 (2016). Sherman Keysor was charged in Graves County with sexual abuse, and was appointed counsel. In the meantime, Marshall County authorities were investigating the claim that Keysor had sexually abused the same victim in that county as well. Aware of the situation in Graves County, and that Keysor was represented, Marshall County investigators went to Graves County to interrogate Keysor while he was incarcerated.

Keysor was given *Miranda* on the representation that investigators were only there to discuss what occurred in Marshall County, and he signed a waiver. However, the questioning expanded into the Graves County matter and he took a polygraph. This all occurred without the knowledge of his appointed counsel. Following the polygraph, he made incriminating statements that were then admitted against him in the Graves County case.

Keysor, through his counsel, moved to suppress the statements from being used against him in the Graves County prosecution. Keysor argued that the introduction of such statements violated his rights under *Linehan* and *Jackson*.

The trial court initially agreed to the suppression, but with the decision in *Montejo*, which was handed down just days before, reversed itself and permitted the use. The Court noted that it presumed the Kentucky Supreme Court, given the opportunity, would follow *Montejo*, based upon prior expressions that Section 11 of the Kentucky Constitution, "provided no greater protections than the Sixth Amendment of the United States Constitution."

Keysor took an *Alford* plea, maintaining his innocence, and appealed. The Kentucky Court of Appeals upheld the trial court, also predicting that the Kentucky Supreme Court would adopt *Montejo*. Keysor further appealed.

The Kentucky Supreme Court began by noting that the case straddled, in effect, a shift in the perception of the Sixth Amendment's right to counsel. The Court reviewed prior cases, including *Jackson*, when it ruled in *Linehan*, and noted the similarities between *Linehan* and Keysor's situations.

The Court also noted that, "maintaining and protecting the integrity of the attorney-client relationship is an important public policy of this Commonwealth." Allowing a wedge to be placed between a defendant and their attorney degrades that relationship. Although the Court agreed in this case, that it was deviating from its expressed rule to follow the U.S. Supreme Court, it noted that was made necessary by the Court's, "abrupt recalibration of its perception of the Sixth Amendment."

As such, it had to break the usual tether between the two Constitutions. The Court quoted *Escobedo v. Illinois*, 378 U.S. 478 (1964), saying, "We have learned the lesson of history, ancient and modern, that a system of criminal law enforcement which comes to depend on the "confession" will, in the long run, be less reliable and more subject to abuses than a system which depends on extrinsic evidence independently secured through skillful investigation."

The Court declared that it now must, "... explicitly hold that if police initiate interrogation after a defendant asserts his right to counsel at an arraignment or similar proceeding, any waiver of the defendant's right to counsel for that police-initiated interrogation is invalid as being taken in violation under the defendant's right to counsel. ..."

The Kentucky Supreme Court concluded by affirming the rationale it originally had for *Linehan*, and holding that once the right to counsel attaches, any subsequent waiver during a "police-initiated custodial interview" is invalid. The Court based its stricter interpretation of the law on the Kentucky Constitution, reversed the decision of the Kentucky Court of Appeals and remanded the case back to Graves County. 📌

Written By  
**SHAWN HERRON**  
STAFF ATTORNEY



# THREAT ASSESSMENT

## TROY PITCOCK, KENTUCKY LEAGUE OF CITIES LAW ENFORCEMENT CONSULTANT

**M**anaging risk in any industry is a good idea, but when your employees could, at any moment, become engaged in a physical altercation, drive at high speeds or chase bad guys in a foot pursuit, it is critical to be proactive about keeping them safe. Kentucky League of Cities Law Enforcement Consultant Troy Pitcock walked us through recent trends in officer injuries and how he and fellow Law Enforcement Consultant Brian Nunn work to improve officer safety in the commonwealth.

### WHY SHOULD LAW ENFORCEMENT AGENCIES MAKE RISK MANAGEMENT A PRIORITY?

If you care about your people, your goal as any leader in law enforcement is to ensure they go home safely every night. Part of that safety is physical, and that they have the training, the tools and the leadership to do their job properly.

In addition to that, on the litigation side, a lot of stress comes with litigation. Even if that litigation does happen, if you've done the proper training, and you've documented that training, it's certainly going to take some stress off the officer knowing they can show they have been following best practices.

### IN YOUR ROLE AS A LAW ENFORCEMENT CONSULTANT, CAN YOU DESCRIBE SOME WAYS YOU WORK TO KEEP KENTUCKY'S OFFICERS SAFE?

It begins by looking at trends, tracking the trends of how officers are being killed, injured and sued by civil litigation. Not only in Kentucky, but this trend also is seen nationwide. We primarily focus on Kentucky. Weekly, we get an update on injuries or litigations for the officers we insure in the state of Kentucky. Monthly, we publish a report that we send out to everyone. We know that sending that out to everyone, coming from the private sector, when people in a field know how

other people in their field are being injured, it greatly reduces injuries. So that's one place to begin.

Everything begins with educating people on where the injuries occur and litigation, for that matter, and then developing techniques to address those.

Most recently, we have noticed an uptick in needle sticks and opioid exposures, particularly related to heroin, fentanyl and carfentanil. We have worked closely with some partners to produce a video using two real-life examples of an officer and deputy telling their stories about being exposed to an opioid on duty. We brought in some experts in the field of narcotics to address best practices, including Dr. Bill Smock, a Louisville Metro Police physician.

Going back even prior to that, we wrote blue pages (short documents that should be used for roll-call training for departments to provide education). We look at the topic at hand – in this case, needle sticks – and some tactics to prevent being stuck. For example, don't put your hands where you can't see and utilize sharps containers. If you don't have a sharps container available, you can use a Tide bottle, for instance. Take the label off, and mark it as a sharps container. Never pick up a needle; use a device, like pliers, and place the needle in a sharps container.

A large number of needle sticks have been occurring when people are trying to recap needles. So, we're trying to educate everyone about not re-capping needles. That's the most recent example of a trend of injuries we have discovered and a safety response to deal with that.

In addition to program development, when you've got the information, you have to distribute it to the right people to utilize. The final part of that is, we visit each of our departments a minimum of once every three years and do a safety and liability review. So, when we have issues like this, that is part of the safety and liability review to ensure they are following best practices.

That relates to their insurance premiums. If you get a certain score, cities get a discount based on following best practices.

### WHAT RECENT TRENDS HAVE YOU SEEN IN HOW OFFICERS ARE BEING HURT?

There are two in particular. We are seeing a lot of foot-pursuit injuries. Ensuring a department has a policy that relates to foot pursuits, that officers are following that policy, and officers are using good common sense is important. As an example, we have a department that has reported multiple injuries near a local retailer. It is situated higher, and officers were falling down the hill when suspects ran. The department realized officers were being injured, and what they did was, instead of chasing people down the hill, they would call in another officer in a cruiser to catch them at the bottom. Very basic response.

Another thing we're seeing is training injuries. What we know is that, because of the times we are currently in of trying to get good, quality candidates to fill positions, we are sometimes getting people who barely pass the [Peace Officer Professional Standards] exam. Then they don't start the Law Enforcement Basic Training Academy until four to six months later. They've done nothing in the meantime to keep their conditioning in place, and when they get to the academy, they can't pass the POPS test and are in much worse shape than they were when they took the test. As a result, we are seeing injuries.

KLC offers a safety grant that is geared specifically toward how injuries are occurring in our cities and with our public works folks. On the law enforcement side, the items we are able to get funding for all relate to how officers are being hurt in the field.

One thing we're looking at this year relates to needle sticks, once again, and opioid exposures in general.

Written By  
KELLY FOREMAN

Photography By  
JIM ROBERTSON



Kentucky League of Cities Law Enforcement Consultant **TROY PITCOCK** speaks during a drone training conducted by KLC. Training regarding topics that might include risk of injury or litigation are an important part of KLC's mission to mitigate risk.



Personal-protection equipment is included in the grant this year, and that's a wide range of equipment. Gloves, protective suits – anything you can articulate to us that relates to personal protective equipment for your folks to reduce the likelihood of exposures, is available.

The grants are based on needs and trends we have identified. We want to be proactive. We're not waiting for you to be exposed. We're trying to be proactive and reduce the risk.

Law enforcement is a profession where the trends nationally relate locally. If you are seeing multiple needle sticks in one area of the country, we know that heroin moves across the country to different areas, so that will come to Kentucky. Trends often begin on the east or west coast and end up in Kentucky some time later. Sometimes weeks later, sometimes months, but those trends that are somewhere else, particularly in bigger cities, will eventually come here.

We see it come into Kentucky in different ways. Generally, a trend will hit just about every section of the state, whether it's methamphetamine, heroin; whatever the case may be. Different things hit urban areas quicker than rural ones. Others will hit a rural area quicker than they hit an urban area. There may be some different pockets of the state that don't experience it.

#### HOW CAN OFFICERS MITIGATE AND PREVENT THESE RISKS?

Mitigating and preventing begins with identifying the problem and looking at best practices across the country that have been successful. For instance, we know that nationally, we are having training injuries, and, actually, some fatal training injuries. We can look at Florida, where an individual was killed at the training academy.

We had been proactive on the front end in Kentucky before that happened. We knew Minnesota had

addressed this through the Training Safety Officer program. So, we brought in the individual who developed that program and helped initiate that across the state of Kentucky. We also produced a video for officers who were unable to attend the training about how the TSO program works. In addition, we worked with DOCJT and instructor development to add the TSO program to that training as well.

#### HOW DO POLICIES DIRECTLY RELATE TO CRITICAL SAFETY ISSUES?

We know that there are 12 critical tasks in law enforcement, and we have policy that relates to those critical tasks. Sometimes there is one policy that will deal with it; sometimes there may be a couple policies. Like, with vehicle operations, you have pursuit operations, you have the take-home policy, you have seat-belt policy. The way that the model policy works is that we look at those 12 critical tasks, but we also look at [Kentucky Association of Chiefs of Police] accreditation. We are a big supporter of KACP accreditation, and it is broken down into approximately 30 chapters. Those chapters focus on the 12 critical tasks, but what we are working toward is providing a model policy for every one of those chapters of accreditation.

We have taken it a step further, and have another section on our model policy webpage that breaks it down into accreditation, so we have a sample. The model policy board meets quarterly at the KLC office in Lexington. There are multiple chiefs, retired chiefs, police attorneys, sheriffs, KLC and [Kentucky Association of Counties] who serve on that committee. We take a policy that was designed for us by Jack Ryan of the Legal Liability Risk Management Institute, go through that policy line-by-line, word-for-word and look for anything needing to be changed. We make

recommendations, and that goes back to Ryan. He agrees or disagrees, and we ultimately go back and forth until we have a model.

The reason this program is so successful is because it lines up with KACP accreditation and focuses on the critical tasks and policies that every law enforcement agency needs. Lastly, we have buy-in, because spread throughout the state, we have a number of chiefs from various different sizes of departments who sit on the committee and help put that together.

Additionally, the policy is designed by the leading law enforcement expert in the country, Jack Ryan, who we work in conjunction with to get those policies.

#### HOW DOES THE TI RESPONSE TO ACTIVE RESISTANCE TRAINING SIMULATOR KEEP KENTUCKY OFFICERS SAFER?

This system is designed to address active resistance that law enforcement face. Each year, we design 10 scenarios specifically dealing with what we've seen across the country or within the state. People think of it as primarily firearms driven. We have other options available, like less-than-lethal force, whether it be the Taser, baton or an ASP. Officers go through the scenarios and make decisions based on what's presented to them.

In the scenarios, the instructor is able to select options for what the person may do based on what they may see the officer responding to, what they're seeing on the scene, whether they're giving verbal commands; those kinds of things. You're really working on how an officer responds to resistance, particularly if it's a situation that began with some verbal discussion where it may escalate from there.

Since the program began using simulators approximately 10 years ago, we have seen the number of injuries to officers [in use-of-force situations] decline. Because, once again, it's better training on other options.

We have approximately 50 host sites within the state. We have three simulators, and they are distributed by region – an east, central and west region. We have identified host sites in each region, and the Ti simulator goes to a location and stays there for "X" number of weeks. Then it moves within each of those regions.

Before all that happens, we develop those new scenarios, and annually, we run a two-day conference where instructors get 16 hours of KLEC credit for instruction on the simulator. If the system is used properly, the instructors know specifically what the participants' response should be, and what they should be looking for in those scenarios.

We have built the statute, KRS 503.090, which gives officers the ability to use force, into all the scenarios so they understand that. Graham v. Connor, the court case that allows officers to use force, also is built into every scenario, so they see that directly on the screen as well.



We teach the instructors to debrief the officer on why they used force and to explain why they made the decisions they made based on the statute and Graham v. Connor.

The simulator is very beneficial in reducing risks to officers for a number of reasons. First, it puts officers in real-life situations and provides them an opportunity to respond to changing situations, just like on a call for service. We have a committee that actively searches for patterns in use of force situations. Officer confidence increases as they participate and review tactics, policy and current case law. Nearly every scenario concludes with an actual video of the situation to which the officer was just exposed, so there is no, 'Well, that will never happen to me.'

With nearly 50 host sites across the commonwealth, we have the simulator generally within about 30 minutes of every police department we insure. Every department is notified of the location, dates it will be present, and the instructor's contact information. There is basically no reason all our officers shouldn't be participating in this critical training. 📍

The First Aid Tactical Trauma Care class provides officers with skills to stabilize life-threatening injuries. First aid is a diminishable skill, and KLC works to provide additional training for officer's to stay sharp and provide the best care for themselves and others in trauma situations.

The Kentucky League of Cities hosted a First Aid Tactical Trauma Care course recently at DOCJT, led by instructor KEARY MILLER. This rigorous, hands-on training includes the use of tactical dummies to assist officers with learning the principles of Tactical Combat Casualty Care.





# Risky Business



**RELATED:** Eight Tips for Reducing Training Risk, p. 23  
Fentanyl Exposure, Needle Sticks Growing Risk to Officers, p. 26

It's 10 a.m. on Friday morning and last night's DUI arrest stumbles into the police department's front lobby. The hangover hasn't quite worn off, but Danny Drunk tells the receptionist he clearly remembers what happened last night. He demands to speak to the chief so he can report how severely Officer Smith assaulted him during their encounter.

Smith's dash cam didn't record the stop and the officer wasn't wearing a body camera. The report doesn't mention any use of force. It's Danny's word against Smith's. Before long, the city is getting out the checkbook to settle a preventable lawsuit.

Law enforcement is a profession full of risks. Vehicle pursuits, foot chases, domestic-violence calls, traffic stops – the list of ways officers can be hurt or killed is endless. While people are the priority, every law enforcement agency also must consider risks to physical property and financial damages resulting from unforeseen incidents.

## KEEP OFFICERS, CITIZENS SAFE WITH AN EFFECTIVE RISK-MANAGEMENT PLAN

Managing your department's risk isn't only about having policies in a binder on the bookshelf. Developing a pro-active risk-management program isn't that complicated, but it requires a consistent commitment to keeping officers and the public safe.

Legal and Liability Risk Management Institute Co-Director Jack Ryan spent 20 years in policing and has spent the past 15 years helping law enforcement across the country develop strong policies to mitigate risk.

"Law enforcement is a target for lawsuits all the time," Ryan said. "It's also a dangerous business. Risk management really has a two-fold purpose. One, to make sure officers are safe – that's the primary purpose. But two, to also give them a second bullet-proof vest – a lawsuit-proof vest, if you will."

Managing law enforcement risk starts with two things, Ryan said. Officers must receive the best training possible and must be trained on the best policies available.

"Let's face it, knowledge is power," he said. "When we don't give them the knowledge they need, bad things happen from a safety and liability standpoint."

*Written By*  
**KELLY FOREMAN**

*Photography By*  
**JIM ROBERTSON**

*Photo Illustrations By*  
**KEVIN BRUMFIELD**





## GETTING STARTED

If you don't already have a pro-active risk-management program in place, the first place to start is to have good policies, Ryan said.

In Kentucky, more than 70 model policies are provided to law enforcement agencies online via both the Kentucky Association of Counties and the Kentucky League of Cities. Ryan suggested that at a minimum, officers should have sound policies covering the 12 highest-risk law enforcement tasks.

"Make sure you have policies in the high-risk areas, and make sure they're up to date," Ryan said. "You need a regular schedule for reviewing them. Use-of-force policy should be reviewed every year for any changes. Compare your use-of-force reports to what your policy says."

Second, Ryan said it is imperative that officers are trained according to what those policies dictate.

"It's great to have policies, but if you're not going to train your officers on them, you're wasting your time if the officers don't know them," he said. "I think a good risk-management program has policies, training, supervision, discipline – but not necessarily negative discipline, more quality control – and remediation."

## WHAT ARE THE INTERNAL RISKS?

To prevent lawsuits and injuries, law enforcement leaders must identify the greatest risks to their people and the public.

After 30 years at Ashland Police Department – the past year-and-a-half as chief – Todd Kelley said he has witnessed accidents and injuries that put his agency at risk. Accidental discharges at the firing range, for example, led Ashland leaders to begin the Training Safety Officer program to make training safer. Establishing plans to prevent unnecessary risk and communicating regularly with his officers are top priorities for the north-eastern Kentucky chief.

"We have to hold people accountable, and officers have to be able to tell you when something's wrong," Kelley said. "If officers see someone doing something that puts someone at risk, they should pop their head up and say, 'I don't think that's the safest way to do that.' You have to instill that not just through paper. You have to put that responsibility into the mindset of the officers and every member of the department."

Training is a significant physical and liability risk if the proper safety mechanisms aren't put into place in advance. Kelley described a mock active-shooter exercise the department conducted at a local elementary school. In addition to APD officers, Kelley said multiple responding agencies within Boyd County were invited to participate.

"Rather than just showing up and telling everybody they need to make sure they have no ammo in

their guns, and go in with that risk, you have to put into motion a safety plan," Kelley said. "You have to have observers to make sure the training exercise is done safely."

Training is an internal threat, much like work-related injuries, internal affairs or vehicle accidents. A lack of home-fleet vehicles is an issue Kelley also considers to be an internal threat to his agency.

"It's more difficult to put ownership and responsibility on an officer when a vehicle is damaged," Kelley said. "Or, if there's something wrong with it, getting them to report it because they just drive it for a few hours a day. Where I don't have that many cars, somebody else may drive it the next day. I think not maintaining your equipment, health and personal wellbeing – those are your internal threats, and they can lead to much bigger issues."

Another internal risk stems from officers who, over time, become "lackadaisical," Ryan said, after doing the same thing multiple times without being injured. Ryan used wearing seat belts and bullet-resistant vests as examples. Even in the area of handling drugs today, there are risks if officers do not use the proper protective equipment.

"We get lax with handling these things sometimes, and they are generally things we bring on ourselves," Ryan said. "Not because we are bad people or bad cops, but because it is human nature. You do the same process over and over and over again and don't get hurt, that becomes the process rather than following the safety steps."

## EXTERNAL RISKS

There are as many, if not more, external risks to officers each day on the streets. Combative, violent citizens top the list of ways officers can be hurt or killed.

"A general lack of respect that seems to be taking over the nation for the past few years with dramatic protests, and often with those protests comes people who feel emboldened to attack law enforcement," Ryan said.

The FBI reported in October that 2016's felonious line of duty deaths rose 60 percent over the previous year. The agency's annual Law Enforcement Officers Killed and Assaulted report showed that 62 of the 66 officers who were feloniously-killed in 2016 were shot with a firearm. More than 57,000 officers were assaulted on duty, a 10 percent rise from 2015.

"That's all the more reason we have to be situationally aware," Ryan said. "But also, at the same time, we can't overdo it. Because if we overreact, then that's not reasonable, so there does have to be some balance there that goes along with that."

Kelley agreed that ambushes are a rising concern. (For more on ambushes, see p. 8)



## Eight Tips for Reducing Training Risk

Law enforcement training can involve significant risk to officers, instructors and participants if proper procedures are not in place. High-risk training such as defensive tactics, active-shooter exercises, firearms qualifications or use-of-force training should be conducted with a Training Safety Officer, said Department of Criminal Justice Training Physical Training Supervisor Al Dixon.

Not all training requires a TSO, but Dixon said any contact-based scenario training should incorporate these practices to mitigate potential risks:

- Distinguish between the TSO and instructor's roles. Communicate about what each person is responsible for during the training, what the instructor is teaching and what site supplies, paperwork and safety measures are needed.
- Observe for off-script behavior. Horseplay, goofing off or non-participation in the activity should be identified and corrected.
- Develop a safety plan. Document risks and concerns that are site-specific. Prepare for weather if the training is outdoors. Ensure you have the necessary personal-protection equipment.
- Be choosy with role players. Do not assign role players who are known goof balls or might encourage horsing around.
- Establish an Emergency Medical Services plan. If a trainee shoots themselves while cleaning their gun, know how you will quickly ensure proper emergency care.
- Communicate the stop signal. Establish a verbal signal such as, "Yield," that everyone will repeat upon hearing someone speak it to stop all training immediately.
- Select an effective TSO. Identify a TSO who is fully engaged in the training but not overly enthusiastic, who focuses on their role and does not start to coach.
- Recognize the training curve risk. Studies show the highest risk in training occurs during lunch time and immediately after. Exercise particular awareness during this time period to prevent accidents and injuries.





“We know people study the police and look for their weaknesses,” Kelley said. “Those are some of the threats. But law enforcement always seems to think we have to do something courageously, or we don’t have any other way of doing it, or we don’t have the resources for something we have to react to. Those are the external things I think play a role in putting the department or city at a risk that shouldn’t be.”

Ryan noted that the top external risks to law enforcement are use of force; search, seizure and false arrest; and pursuit and emergency vehicle operation. Kelley agreed, but added that often he has seen problems arise during situations that are seemingly simple, too.

“When you’re interacting with the community or engaging somebody and you’re not watching their hands, not watching their movements – those are the things that take a low-risk situation and make it high-risk,” Kelley said. “I think the human element is the biggest priority because you don’t know what people are going to do.”

When engaging in a situation that could become high-risk, Ryan encouraged officers to consider asking the question, “How important is this?”

For example, Ryan referenced a case where an officer engaged an underage teen in a foot chase after seeing him hanging out on a college campus holding a red Solo cup.

“He gets out of the car to write a ticket and the kid runs,” Ryan said. “The officer chases him and goes through a dark backyard. He never sees the steel-cable clothesline and catches it. He literally gets clotheslined and gets a broken neck and a crushed larynx. Over a red Solo cup.”

“So when we start to put out directives and say, ‘Hey guys, we gotta think a little bit about officer safety, and that’s part of this equation on when and how we chase bad guys,’ Ryan continued. “Your safety is important to us, too.”

If the guy just committed a child molestation, Ryan said it might be worth undertaking the risk of getting hurt to capture him. But there are other times taking the risk is just not that important. Before taking action, if officers take a moment to consider the importance of what they are about to do, Ryan said about 90 percent of law enforcement questions can be answered.

### QUALITY CONTROL

If you call your bank for assistance, before a representative gets on the line, Ryan said you likely will hear a message that says some variant of, “This call may be monitored for quality assurance purposes.” Upon review of the verbal transaction, the bank’s personnel in charge of quality control may run through a checklist of procedures the representative should have performed. Did the call taker say, ‘Good morning, Bank of America?’ Did they ask three security questions before discussing personal information?

“They use those objective checklists in review of calls as a coaching process,” Ryan said of the bank example. “In this day and age, we take in a lot of data. One of the things we have to be careful of is not waiting until something happens to look at the data. We should be using this data for quality control and coaching.”

Ryan joked that often in law enforcement, agencies collect data, but let the plaintiff’s attorney interpret the data for the department. But when a lack of timely data review leads to a serious situation that could have been avoided, it is no longer a laughing matter.

“A lot of plaintiffs’ attorneys now, when they bring a lawsuit against the agency, say the agency’s failure to look at the data was the cause of the harm to their plaintiff,” Ryan said.

For example, if an officer is accused of sexually-assaulting a female on duty, the agency has access to a multitude of data to determine his whereabouts. If the agency had routinely looked at dash cam footage from traffic stops or routinely checked the officer’s GPS, they would have seen he wasn’t where he said he was at times he said he was there, Ryan said.

“That would have given the department notice,” Ryan continued. “They had the data, by the way. So that’s kind of how the plaintiff will start using this stuff. We need to get ahead of that and make sure we know what our officers are doing. In most cases we’re not catching a rapist, we’re catching an officer not practicing good safety and, by doing so, we can coach them into making sure they are using good tactics.”

Law enforcement leaders might also prevent one officer’s bad habit from becoming standard procedure, Ryan said. In a case he reviewed, Ryan said an officer had been fired for shooting at the tires of a car. The officer missed the tires and the bullet went through the door, striking

the driver. The agency had a policy in place prohibiting shooting car tires. However, Ryan discovered a flaw in the enforcement of that policy.

“Nine other times in the same year, officers in that department had shot at the tires of cars and not a single one of them was disciplined,” Ryan said. “They never hit the driver – [the bullet] always hit the tire – but as a result, all of the sudden the agency wants to enforce the policy. It might have been in writing, but the custom and practice was to shoot the tires.”

If the agency had regularly reviewed use-of-force reports for the previous nine officers, it would have been clear the policy was not being followed. As a result, Ryan said the fired officer’s attorney can show the agency’s fault in not enforcing the policy.

“If you allow nine officers to do it, what does the 10th officer think he can do?” Ryan asked. “If they had a proper risk-management assessment in place on the front end that lived up to their policy that said, ‘Don’t shoot the tires,’ they could have stopped the first guy. I’m not saying fire him or even discipline him. But bring him in and say, ‘Hey boss, come in here and read this policy with me. You’re not supposed to be doing that. And let everybody know that was not right.’”

“If the second guy does it, you can be a little stronger, but you never get to number 10 if you do it right,” Ryan continued.

### ACCOUNTABILITY

In a large law enforcement agency, selecting someone to be responsible for risk management isn’t too difficult. In smaller agencies, many times the responsibility falls to

the chief. However, Kelley said he believes the responsibility for protecting officer safety and departmental liability should extend throughout the organization.

“I think everybody on the department is responsible, from those of us who wear brass down to the patrol officer,” Kelley said. “Ultimately, because I’m the chief, I have ownership of the responsibility, but if I’m not pushing it out to the command staff and officers are not policing themselves, then that’s a failure and I’m going to find out why.”

There is nothing wrong with selecting one person to oversee departmental safety, but Kelley said one person can’t assume the whole responsibility themselves. It’s important to put somebody in that mindset, but that command staff or mid-level supervisors have to be involved as well to ensure officers are practicing good safety measures.

That also means that whether it is the chief or an individual assigned to risk management, officers have to know that when they speak up about safety concerns, they will be heard, Kelley said. This kind of discussion can be accomplished on a one-on-one basis or through after-action reviews of large-scale community events as well, he said.

“When you start to do proper risk management, you’re not just looking at whether the officer did something wrong or had poor performance,” Ryan said. “Maybe they were trained wrong. Maybe the policy is not good. But you don’t want it to happen again. You want to fix it before something serious happens. And when we practice regular risk management, we will be the ones to discover it as opposed to the plaintiff’s attorney.”

## 12 High-Risk Critical Tasks of Law Enforcement

- Use of force
- Pursuit and emergency-vehicle operations
- Search and seizure, including arrest
- Care, custody and control of prisoners
- Domestic violence
- Property and evidence
- Off-duty conduct
- Sexual harassment / misconduct
- Selection and hiring
- Internal investigations
- Special operations
- Dealing with the mentally ill or emotionally disturbed

Source: Institute for Criminal Justice Education, Reducing Law Enforcement Liability; Reviewing the High Risk Critical Areas, by Chief Louis Zook, Sylacauga (Ala.) Police Chief.

Scan this QR code with your smart device or visit <http://www.icje.org/articles/ReducingLawEnforcementLiability.pdf> for more information.





# FENTANYL EXPOSURE, NEEDLE STICKS GROWING RISK TO OFFICERS

Written By  
KELLY FOREMAN

The risk of exposure to fentanyl and needle sticks is a growing concern for law enforcement around the nation. In Kentucky, exposure numbers have been consistently rising over the past two years, according to Kentucky League of Cities claim summaries.

"In 2016, half of all overdose deaths in Kentucky had fentanyl in their bloodstream," said Van Ingram, executive director of Kentucky's Office of Drug Control Policy.

Ingram indicated that drug cartels have increased the danger of opioid exposures by adding fentanyl to other drugs, often unbeknownst to users and law enforcement.

"There's a false sense of security sometimes when people are buying pills, methamphetamine or cocaine," Ingram said. "All these things have been found to have fentanyl in them. We've even seen fentanyl in marijuana.

"It really is a game changer," Ingram continued. "This introduction of fentanyl into our illicit-drug supply is dangerous for everyone involved. From the patrol officer to the property room, everyone needs to be careful about how they're handling drugs."

Together with ODCP, the Kentucky League of Cities, Appalachia High-Intensity Drug Trafficking Areas, Louisville Metro Police Department, Lexington Police Department and Boyd County Sheriff's Office and the Department of Criminal Justice Training recently distributed a training video warning officers about the dangers of fentanyl exposure and needle sticks. Boyd County Sheriff's Deputy Jason Nattier and Lexington Police Officer Kasey Sennett shared their fentanyl-exposure experiences.

"I just would urge people if they aren't feeling good to go ahead and speak up," Sennett said. "... Our pride tells us, 'We'll be fine, just stick it out.' But the sooner that you speak up and get that kind of care, the better."

If exposed to fentanyl, it's important for officers to be aware of what the symptoms are and how to get help immediately to prevent an overdose.

"The nature of law enforcement is that if someone is exposed themselves, they may not acknowledge they are having symptoms," said Daren Atkin, AHIDTA Kentucky state coordinator. "It could be something as simple as a headache, increased blood pressure, or just feeling extremely hot, for example. Many times, I think those symptoms can be dismissed. It's important for fellow officers to be very mindful of their partners and the other officers they work around, watching their backs for potential exposures."

Ingram, Atkin and LMPD Police Surgeon Dr. Bill Smock offered several recommendations for officers to minimize their risks. For example, Atkin and Smock both recommended officers wear a mask if they

know they are entering a situation where they could be exposed to an opioid.

"Unfortunately in Kentucky, we are finding that most who are exposed to narcotics, it is usually a respiratory exposure," Smock said. "For the tactical officer who may be doing a warrant in a lab, if you use a flash bang, which will make particulates airborne, you should be wearing a gas mask with a filter that will filter those particles and keep them from getting into the lungs.

"The lungs are the easiest way for an officer to get exposed," Smock continued. "The surface area of the lungs is tremendous, and even breathing in a small amount puts officers at risk."

Atkin and Ingram also recommend that officers wear nitrile gloves while handling any narcotics.

"Some of these cartels are taking fentanyl as the active ingredient, but having it look like a Xanax bar," Ingram said. "Or having fentanyl as the active ingredient and it looks like a Percocet. Not only is that dangerous for the public that's consuming them,

but it's also dangerous for the officers who are hand-counting out pills like they have for years. Now all of a sudden this becomes a gloved issue, an airborne issue, so we really have to be cautious about everything we're handling now."

Regarding needles, Atkin urged officers never to re-cap them. Many officers have attempted to re-cap a needle

and inadvertently stuck themselves, sometimes when the needle penetrates the cap itself, Atkin said. Additionally, instead of picking up a needle with your hands, Atkin recommended carrying a set of pliers in the cruiser to handle any needles. If you don't have a sharps container, use a water bottle, for example, to prevent the risk of being stuck.

"You can use anything that will safely contain that needle," Atkin said. "Something such as an empty Tide bottle, for example. Just label it sharps and if you have a needle, rather than trying to re-cap that needle, put it in that container."

Finally, Atkin and Smock recommended that all first responders have quick access to Narcan for their own protection and for the protection of any K-9 who might become exposed. The same Narcan used to treat humans can be injected into the nostrils of a dog to prevent overdose, Smock said.

"We certainly hope departments will make Narcan available to their officers and first responders," Atkin said. "Once again, it goes back to them looking for those signs and symptoms of potential exposure and having Narcan available to them to administer as needed." 🐾

“FOR THE TACTICAL OFFICER WHO MAY BE DOING A WARRANT IN A LAB, IF YOU USE A FLASH BANG, WHICH WILL MAKE PARTICULATES AIRBORNE, YOU SHOULD BE WEARING A GAS MASK WITH A FILTER THAT WILL FILTER THOSE PARTICLES AND KEEP THEM FROM GETTING INTO THE LUNGS.”

— DR. BILL SMOCK, LMPD POLICE SURGEON



# THREE TECHNIQUES TO LIMIT CIVIL LIABILITY EXPOSURE



Written By  
**DOUG BARNETT**  
STAFF ATTORNEY

**L**aw enforcement officers ensure the safety of our communities while acting as a force for justice. The duties of a police officer, however, present a myriad of circumstances that may lead to civil liability. From responding to dangerous situations, conducting searches and seizures during arrest, engaging in pursuits of suspects, operating agency vehicles, and utilizing force when necessary for self-protection or for the protection of the public, law enforcement personnel are faced with rapidly evolving situations that require immediate decision making. Thus, law enforcement, by its nature, is embedded with risk that could lead to civil liability for law enforcement personnel and their agencies.

To reduce exposure to civil liability, law enforcement agencies should engage in systematic risk management. Risk management through policy development, implementation of policies and customs based upon the specific needs of an individual agency and adequate training in policies and customs based upon accepted law enforcement standards are vital for law enforcement because these practices can help agencies limit their exposure in the event of legal action.

Policies are the general principles that guide a unit of government in the management of its affairs. At a minimum, policies define decision making boundaries and reflect the agency's core values and priorities. Adopted policies should be specifically tailored to meet the unique needs of the specific individual law enforcement department. Upon adopting policies and customs, agencies should regularly review those policies to ensure compliance with newly enacted laws, state and federal court decisions and accepted professional standards. Regular policy reviews serve not only to protect law enforcement personnel, but also represent accountability to the community through the implementation of best practices and quality controls.

18 U.S.C. § 1983 creates a civil cause of action against any person who, acting "under color of state law," deprives another person of rights, privileges, or immunities secured by the United States Constitution or federal laws. The United States Supreme Court in *Monroe v. Pape*, 365 U.S. 167 (1961) held that an individual police officer's official misconduct may be actionable for purposes of a § 1983 claim if the action was taken "under color of state law."

Sixteen years later, the Supreme Court held in *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978), that municipalities and law enforcement agencies may be sued under § 1983 because those entities are "persons" within the meaning of the statute. To prove that a law enforcement agency's actions deprived a plaintiff of a constitutional right, *Monell* requires a plaintiff to demonstrate that the deprivation of constitutional rights occurred due to actions taken pursuant to a department's "official policy" or "custom." The Supreme Court, in *Monell*, defined "policy or custom" as a "statement, ordinance, regulation or decision officially adopted and promulgated by the body's officers or a governmental custom that has not received formal approval through the body's official decision-making channels." For § 1983 liability to attach under *Monell*, a plaintiff must prove a direct causal link between a municipality's policy or custom and the alleged constitutional violation. In *Pembaur v. City of Cincinnati*, 475 U.S. 469 (1986), the Supreme Court determined that municipal liability may be imposed for a single decision if the decision to adopt a particular course of action was directed by those who establish governmental policy.

Upon the enactment of policies or customs, law enforcement agencies must provide adequate training for the recurring tasks that officers will encounter throughout the course of employment. The training in how to conduct those recurring tasks must be consistent with generally accepted practices in law enforcement.


The seminal case with respect to a law enforcement agency's failure to train its officers is *City of Canton v. Harris*, 489 U.S. 378 (1989). In this case, Geraldine Harris was arrested by police officers employed by the City of Canton. During the booking process, Harris fell to the floor numerous times. When asked by the officers if she required medical assistance, Harris responded incoherently. Based upon Harris' incoherent responses, the officers did not provide medical attention to her. Upon release, Harris' relatives took her to a hospital where Harris was treated for various emotional ailments. Harris filed a lawsuit alleging her constitutional due process rights were violated by the City of Canton because official police department policy placed sole discretion to determine whether a detainee needed medical attention to shift commanders and the shift commanders were provided no training to assist them in making these medical evaluations.

Ultimately, the United States Supreme Court held in *Harris* that a municipality may be held liable under § 1983 for violations of inadequate training of its employees, but only when the failure to train amounts to "deliberate indifference" to the constitutional rights of the people with whom the employees will interact. Thus, *City of Canton v. Harris* stands for the proposition that a municipality is liable only when the failure to train is a deliberate choice on the part of the city.

Later Supreme Court decisions have limited the impact of "deliberate indifference" with respect to failure to train. For example, in *Connick v. Thompson*, 563 U.S. 51 (2011), John Thompson sued Orleans Parish District Attorney Harry Connick and several assistant prosecutors in their official and individual capacities under § 1983. In his lawsuit, Thompson claimed that he served fourteen years on Louisiana's death row for a crime he did not commit because prosecutors failed to turn over exculpatory blood evidence in a related case. The United States Supreme Court reversed a \$14 million judgment for Thompson after holding that a prosecutor's office could not be found liable for the admittedly illegal conduct of one employee when there has only been one violation of policy caused by deficient training.

**“**THREE RISK MANAGEMENT TECHNIQUES DESIGNED TO LIMIT EXPOSURE TO CIVIL LAWSUITS ARE PROPER POLICY DEVELOPMENT, ADEQUATE TRAINING PROGRAMS DESIGNED TO ADDRESS RECURRING TASKS THAT MAY RESULT IN HARM TO ANOTHER, AND ENSURING PROPER SUPERVISION OF EMPLOYEES.**”**

Proper supervision is another risk management technique that law enforcement agencies can employ to limit their civil liability. The Sixth Circuit has addressed the issue of supervisor liability under § 1983 with respect to failure to train. In *Shehee v. Luttrell*, 199 F.3d 295, 300 (6<sup>th</sup> Cir. 1999), the court held that a supervisor is not liable for failing to train unless the supervisor "either encouraged the specific incident of misconduct or in some way directly participated in it." A plaintiff must demonstrate that the supervisor implicitly authorized, approved, or knowingly acquiesced in the unconstitutional conduct of the offending officers.

Three risk management techniques designed to limit exposure to civil lawsuits are proper policy development, adequate training programs designed to address recurring tasks that may result in harm to another, and ensuring proper supervision of employees. Policies govern the mission, define core values and provide direction for the agency and its employees. Training ensures that officers understand policies and procedures, establish competency with those policies, procedures and accepted professional standards. Training programs must be developed in areas where there is a patently obvious need for training, such as use of force, traffic stops and searches and seizures. Finally, appropriate supervision is a necessary risk management technique that provides the oversight and accountability needed to ensure that officers are adhering to agency policies, practicing accepted law enforcement standards and receive the training necessary to fulfill the mission to protect and serve the community. 



# TARGET AUDIENCE



## LMPD Using Outside-the-Box Thinking in its Social Media Platforms

**W**hether it is a post, live stream, tweet, like or hashtag, social media platforms are the go-to means of communicating in many circles.

Law enforcement agencies also are taking advantage of these platforms to engage with residents of the respective communities. This includes Louisville Metro Police Department, which created a position solely for the purpose of cultivating social media.

LMPD Officer Lamont Washington has been in charge of the agency's social-media presence since October 2016.

"LMPD got a (Department of Justice) grant that included 10 officers," Washington said. "Nine of those positions created the community-policing unit we now have. The other position was mine. It was a position

designed to focus on social media. It was an appointed position."

Washington had little experience with social media prior to being appointed, but the self-professed "computer dork, gadget nut and YouTube expert," was up to the challenge.

### SOCIAL-MEDIA APPROACH

The early design of LMPD's social-media presence looked similar to many other law enforcement agencies.

"It was just to post a picture here and there and to post an invite to an event, but there was no computer-dorky look at it," Washington said.

That changed when Washington took on the duties full-time and began to look at analytics.

"Google matrix, the analytics of social-media pages ... none of that was looked into," he said. "It was posting

as it hit your desk, versus taking into account the demographics you are trying to reach with your post."

When looking at ways to best use social media to benefit LMPD, Washington stumbled across an Internet sensation who is adept at simply doing the splits.

"Logan Paul has 800 million followers on Facebook and 900 million YouTube followers," Washington said. "He has zero talent, other than he can do the splits. He started posting Vines – a short-form video hosting service where users could share six-second-long looping video clips – doing the splits.

"He would do the splits in the middle of a mall or restaurant and post a six-second Vine," Washington continued. "So, quickly he eclipsed 500,000 followers."

Washington said the key to Paul's social-media success was his ability to understand analytics and how to reach his targeted audience.

"When we look at agencies who've been looking for a guy who committed a burglary, and the case has been cold for years, and this guy (Paul) has 800 million people who get notified when he wants to do the splits ... why are we not tapping into that?"

By understanding analytics and outside-the-box thinking, LMPD's Facebook following has grown to more than 90,000 people.

### OWNING THE MESSAGE

There is no reason the news media has to be the authoritative source, Washington said. Social mediums now allow police departments to own the message.

"Let the media post LMPD's story instead of the PD being the news story," he said.

In early summer 2017, the city's High View area experienced a series of violent robberies.

"This was a big thing a few months back, where a man and a woman were targeting senior citizens on violent robberies – pistol whippings," Washington said. "The major of that division reached out to me and said they had a fairly good description of the pair, and

one of the things that really stuck out was the guy had really good teeth ... people were saying that he was well-manicured with his facial hair."

The major wanted to put a post on Facebook with the description hoping the public would provide leads. Washington suggested LMPD produce a video.

"You're a mom and your parents are alive, and this has to piss you off," Washington told the major. "You're the major of this division that is being affected by this, so let's do a video. I did a face-to-face with her, and I flipped the screen up on the camera so she was talking to herself. I said, 'Get those who are watching this to want to call in and tell us who these people are.'"

People may not know their neighbor is going around robbing people, Washington said.

"But you probably have noticed that your neighbor has really good teeth or has well-manicured facial hair, and that's the guy we're looking for," he said.

The couple had been committing these crimes for more than a week. When the video posted on LMPD's Facebook page, within 24 hours it had 75,000 views and reached 148,000 people.

"The next day, that division got into a pursuit and both were in custody because so many tips came into our 574-LMPD tip line from that video," Washington said.

Because of the success of LMPD's social-media presence, Washington said many news agencies have to begrudgingly adapt to the department's practice.

"A local news director sent Lt. Phil Russell an email stating that the television station couldn't afford to have someone just watch LMPD's social-media

**“A LOCAL NEWS DIRECTOR SENT LT. PHIL RUSSELL AN EMAIL STATING THAT THE TELEVISION STATION COULDN'T AFFORD TO HAVE SOMEONE JUST WATCH LMPD'S SOCIAL-MEDIA ACCOUNTS ALL DAY LONG. THAT'S NOT OUR PROBLEM BECAUSE 90,000 PEOPLE ARE WATCHING OUR SOCIAL-MEDIA ACCOUNTS.**

– LAMONT WASHINGTON



(OPPOSITE) Louisville Metro Police Officer **LAMONT WASHINGTON** demonstrates an interview technique he employs as the LMPD social-media public information officer.

(LEFT) LMPD Sgt. **JOHN BRADLEY** and **WASHINGTON** review edits of a video.



accounts all day long,” Washington said. “That’s not our problem because 90,000 people are watching our social-media accounts.”

The key to getting the message out to the public is simple – less is more, Washington said.

“Your message has to be written in a sense that you’re not going to lose anybody,” he said. “The reason television reporters and print media are so good at Twitter is they have 10 seconds to grab your attention so you will continue to watch them. So, 140 (Twitter) characters isn’t a problem. For the layperson, those are the people who you have to read the tweets in reverse order, because they can’t do it in 140 characters. So they just ramp out one tweet after another to get it out there.”

### PERCEPTION VS. REALITY

If you are a policing agency, chances are that at one time or another, public perception hasn’t been favorable. Louisville is no different, Washington said.

However, using social media in a proactive manner has gone a long way in helping the public understand reality.

In May 2016, Louisville officers were involved in a police-involved shooting where a young man’s life was lost. The commonwealth’s attorney’s office was deciding whether to file charges against the officers, and public perception was against the department, so Washington put together an impactful response.

“I got with some of our local radio personalities who have a very large social-media following,” he said. “I ran them through our shooting simulator and did a scenario that involved split-second decision-making.”

“I called the commonwealth’s attorney’s (public information officer) and said, ‘Can you give me a

24-hour notice before you announce, regardless if it is to pursue charges or not to pursue charges on our officers?’” Washington continued.

The PIO gave him notice and he released the video of the simulation on Facebook, Washington said. In the video, an LMPD firearms instructor went through it frame-by-frame.

“You can see once officers gave the verbal command, you had two-tenths of a second, and you had a round coming down range at you or you had a knife pulled on you,” Washington said. “It showed how quick that time is.”

Within the first 24 hours of posting the video, there were nearly 260,000 people reached and 97,490 video views. Most importantly, public perception had changed drastically.

The commonwealth’s attorney decided against pursuing charges against the officers.

### BODY-CAMERA FOOTAGE

LMPD is one of the few agencies that release body-camera footage on social media.

Assistant Police Chief Lt. Col. Robert Schroeder said the department recognizes the importance of transparency.

“The use of police body cameras is one facet of that (transparency) commitment,” Schroeder said.

Footage of officer-involved shootings is released whenever possible, Schroeder said.

“This allows our community to develop a deeper understanding of what actually occurred in the incident,” he said. “It can give the public a clear and neutral picture of what transpired. This helps hold police accountable to the public while preventing the spread of misinformation regarding an incident.”

There are many factors involved before LMPD releases body-camera footage.

“When releasing a video, an agency has to weigh the public’s interest in the event against privacy concerns of those involved,” Schroeder said. “For instance, in the police-shootings videos we have released, the specific injuries were blurred out to protect privacy. The subject’s face after the shooting was also blurred to protect the dignity and privacy of the person.”

The assistant chief said there are also times when a video is not released.

“Juveniles and the victims of sexual crimes have enhanced privacy concerns and are protected under Kentucky law,” Schroeder said. “As leaders, we must work with our citizens to determine the best use of video for our agencies. Technology is a constantly-progressing field. Police video is here to stay. How that video is used will evolve with the needs of our respective communities.”

### TIPS FOR SMALLER AGENCIES

LMPD is the largest law enforcement agency in the state, and an argument can be made that smaller agencies do not have the personnel to devote an officer to a full-time social-media position.

However, Washington said social-media has a place in every agency, no matter the size.

“The beauty of social media is everybody has a smartphone,” he said. “You can do it with a cell phone. Cell-phone adapter tripod costs are small. The equipment isn’t that expensive for the start up.”

Another thing departments need to keep in mind is their audience.

“Your audience isn’t the news media,” he said. “Your audience is those you protect and serve. Know your police department and know the community where you serve and know what is important to them.”

Also avoiding some pitfalls in terms of producing social-media content is important, as well. In other words, don’t make the production a big production.

“(Residents) will say if you’ve got the time to produce a professional-grade video, but we have a record number of crimes being committed ... so, where are your energies going?” Washington said. “The stuff that doesn’t look professionally done gets a lot of energy because it’s creative. Again, it doesn’t take a lot of equipment. A cell phone and basic microphone to wire into your phone are all you need.”

“It doesn’t have to be heavy stuff. Fireside chats are better received than seeing it as breaking news,” he concluded.

For more ways to make social media work better for an agency, contact Washington at [Lamont.Washington@louisvilleky.gov](mailto:Lamont.Washington@louisvilleky.gov) or call 502-779-1295. 📞

A Department of Justice grant created a social media/PIO position for the Louisville Metro Police Department. Officer LAMONT WASHINGTON, seen here at his desk, transferred into the position in October 2016.



LMPD Officer LAMONT WASHINGTON, demonstrating an interview with LMPD Special Advisor JESSIE HALLADAY, said smaller agencies can also think outside the box in terms of social-media presence with very little cost. A smartphone, which most officers have, and inexpensive tripods are a cost-effective means to put more pop into an agency’s social-media practice. The key is knowing your audiences, and it’s not the news media.



# USE OF FORCE IN CRISIS



Written By  
**SHAWN HERRON**  
STAFF ATTORNEY

In situations where an individual is in a medical or psychiatric crisis, law enforcement officers often are the first on scene. Sometimes the caller explains the situation, but in other cases, they simply report that an individual is disruptive and destructive. When officers respond, they may find themselves pitched into a circumstance where getting information about an individual takes a back seat when responding to an immediately-dangerous situation, both for themselves and for the public. In recent years, several cases in Kentucky and the Sixth Circuit have provided guidance for officers.

A seminal case is Champion v. Outlook Nashville, Inc., 380 F.3d 893 (6<sup>th</sup> Cir. 2004). Calvin Champion was a mute adult male with severe autism. He became violent in public and officers were summoned. His caregiver explained the situation, but did not indicate that Champion was nonverbal and unresponsive. Officers struggled with Champion, and he was subdued. Within a few minutes, he began to vomit and EMS was called.

Officers rendered care to prevent asphyxiation. At trial, witnesses indicated the officers compressed Champion even after he was secured, which they denied. The officers were held liable at trial. The Court noted that officers should take into consideration the diminished capacity of a subject who is unarmed (when making force decisions).

Another relevant case is Gaddis v. Redford Township, 364 F.3d 763 (6<sup>th</sup> Cir. 2004.) When officers tried to make a traffic stop, they found Joseph Gaddis holding the steering wheel but slumped to the side. Officers reasonably believed he was intoxicated. Gaddis was uncooperative but pulled his hands from his pockets, holding a knife, which he “wind milled” at the officers. He was shot, but survived. He was found to be mentally ill and his criminal case was set aside. He filed suit faulting the police response. The officers were dismissed from the lawsuit. Following the precedent set by Graham v. Connor, 490 U.S. 386 (1989), the Court looked at the facts, specifically, the severity of

the crime at issue, whether the suspect posed an immediate threat and whether he was actively resisting arrest or attempting to flee to evade arrest. Although Graham acknowledges that a person’s apparent mental state can be a factor in the evaluation, the officers only had fragmentary evidence that Gaddis was mentally ill, as his incoherent conduct was consistent with intoxication as well as mental illness. The Court upheld their dismissals.

This case can be contrasted with the much earlier case of Russo v. City of Cincinnati, 953 F.2d 1036 (1992). In Russo, officers shot Thomas Bubenhofer, who was diagnosed as having paranoid schizophrenia. He escaped during a hospital pass, and Cincinnati officers were called. It was broadcast that he was “suicidal, homicidal and a hazard to police.” A few hours later, family found Bubenhofer hiding under bedclothes at their home and called police. Karen Russo – Bubenhofer’s sister – told officers her brother was alone and did not have a firearm. When the officers made contact with him, Bubenhofer threatened to kill anyone who entered. After some “provoking language,” he opened the door holding knives. One officer fired a Taser, which had a momentary effect, and Bubenhofer rushed the officers. They fired a gun and he was fatally wounded.

The Sixth Circuit agreed that in hindsight, although the initial use of the Taser ultimately led to the use of lethal force, it was reasonable. The second use was a closer call, as the subject was already down at the time. Again, the officer used the Taser to avoid resorting to deadly force. Finally, with respect to the shooting, the Court ruled the situation deserved to be taken before a jury and more fully explored, as some 10 minutes elapsed between the Taser and firearm shooting, and he had apparently dropped the knives at some point in between. Most critical in this case, and why it is a keystone case for such evaluations, is the discussion of the adequacy of police training in the area of recognizing the need for medical and psychiatric assistance. Although the officers had some basic training in the area of interacting with the mentally ill or emotionally disturbed, the Court agreed it was appropriate at this state to deny summary judgment and allow the case to move forward to determine if the facts exhibited “deliberate indifference” under City of Canton v. Harris, 489 U.S. 378 (1989).

However, even when officers clearly recognize they are interacting with a mentally ill person, the assessment for the need to use force does not change. In Sheffey v. City of Covington, 564 Fed. Appx. 783 (6<sup>th</sup> Cir. 2014), Ruby Sheffey was quickly identified as either intoxicated or mentally ill. He was noncompliant to commands and making threatening gestures. He struggled with officers, who used a Taser several times, but that proved ineffective. Once secured, Sheffey went into medical distress and died from excited delirium. The Court agreed the officers were not at fault in his death.

In Haugh v. City of Louisville, 242 S.W.3d 683 (Ky. App. 2007), officers went to Dennis Haugh’s residence to serve warrants. When they arrived, Haugh refused them entry and armed himself with a frying pan and butcher knife. Ultimately, as the situation evolved, the SWAT team used OC spray, bean-bag rounds and a police K-9. Haugh stabbed the dog. Officers fired more bean-bag rounds and tear-gas canisters. One officer “literally shot the butcher knife” from the subject’s hand. Haugh was overpowered and taken

into custody. He died several weeks later from injuries sustained during the incident. The officers contended that they were unaware of the subject’s paranoid schizophrenia and that it was, ultimately immaterial, as it would have made no difference in their use of force. The Court agreed “mental illness does not exempt a person from the use of reasonable force by the police.”

In City and County of San Francisco v. Sheehan, 135 S.Ct. 1765 (2015), officers entered the room of a mentally ill individual, living in a residential care facility, who had threatened her social worker. Officers entered, retreated and then reentered her room. Teresa Sheehan lunged at them. Officers shot her multiple times; she survived. Sheehan argued that the officers violated the Americans with Disabilities Act by failing to accommodate her known disability. The Supreme Court held that her mental disability was simply not a factor and the entries and use of force were reasonable under the circumstances known to officers.

Soon after Sheehan, the Sixth Circuit again ruled in favor of officers in Rucinski v. County of Oakland, 655 Fed.Appx. 338 (6<sup>th</sup> Cir. 2016). Officers were summoned to a welfare check and were aware that Jeremy Rucinski was schizophrenic, had not been taking his medication and that he had a knife in his possession. Officers entered with at least one Taser drawn. As he walked toward one of the officers, he was fatally shot. The Court agreed the use of deadly force was appropriate because Rucinski posed a significant threat to the officers and did not comply with commands. The fact that he was known to be mentally ill was irrelevant.

The most recent case on the matter is Roell v. Hamilton County (Ohio) Board of County Commissioners, 870 F.3d 471 (6<sup>th</sup> Cir. 2017). Gary Roell had stopped taking medication for schizoaffective disorder and paranoid delusions, which, “rendered him a danger to both himself and to others.” On the day in question, he damaged his condominium, then went to his neighbor’s home and broke her window. That triggered a call to law enforcement. Three deputies arrived and found Roell holding a garden hose with a metal nozzle. He was mostly naked and screaming. He approached deputies in an aggressive manner, swinging the hose. The deputies ordered him to drop the hose, but he did not. The deputies were able to grab him.

They struggled and fell to the ground, and the deputies lost their hold on him. He was tased and reacted, but still able to move. Roell was combative and thrashing, striking at the deputies. He was drive stunned, to no effect. They were finally able to get him on the ground and restrained. Roell alternated between going limp, snoring and thrashing. Realizing he stopped breathing, the deputies administered CPR, but Roell died. The coroner ruled that the cause of death was excited delirium, but natural, and there was no evidence of asphyxiation or compressive force.

The Court ruled in favor of the officers.

When an officer is faced with a sudden, violent and dangerous subject, force is reasonable. How much force depends upon the circumstances, and in particular, the immediate danger posed to the officers, to others and to the individual themselves. Although having information about a subject’s mental illness may prove useful in resolving the situation, it is not a factor, specifically, in using force when such force is legally permitted under the circumstances. 🐾



## SPOTLIGHT ON: JACKSON COUNTY SHERIFF PAUL HAYS



### AT A GLANCE

**YEARS IN LAW ENFORCEMENT:** 37

**CURRENT POSITION:** Sheriff of Jackson County Sheriff for three years

**PRIOR LAW ENFORCEMENT EXPERIENCE:** Approximately 25 years with KSP

Command positions with KSP SRT, Intelligence Section, Post 7, Richmond and Post II, London  
Approximately 10 years with Operation UNITE, regional commander, Deputy Director of Law Enforcement and Director of Law Enforcement

**EDUCATION:** AA Degree in Law Enforcement at Eastern Kentucky University  
Graduate from KSP Academy  
Graduate from FBI National Academy

### CHANGES MADE SINCE TAKING OFFICE

I agreed to rehire the officers who formerly worked at the Jackson County Police Department after that office was closed. We adapted our office to incorporate the expertise of each officer. We also updated the office on professional conduct both on and off duty. When we began, all our cars were totally worn out. We obtained used cars from Jefferson County Sheriff's Office, Bowling Green and Elsmere police departments and ultimately obtained four new vehicles with the help of our local fiscal court. We obtained grants through USDA. We also refurbished our offices and cleaned up office records.

### BUILDING TRUST

Having had a long and versatile career in law enforcement with the Kentucky State Police for nearly 25 years, 10 years with Operation UNITE and three years with Jackson County Sheriff's Office, I have learned that you treat folks the way you want to be treated. I take a strong interest in every case. I don't just sit in the office; I lead by example. I work cases, holidays, and night shifts and serve out in the field. When leading staff you must be upfront with them, and if you make a promise – you keep it. They have to believe what you say is what you mean. I encourage staff to be good parents, good officers, and to get involved in civic organizations, their churches, schools, and community events and blend into society. They need to be a part of the community they live in and be the best they can be.

### COMBATING CURRENT TRENDS

We should learn from past experiences as we seek to improve. We should communicate with county and state leaders. Address small problems before they escalate and make sure the public knows to trust us as we serve them. There are drug issues in every county, but you can work with Operation UNITE and other drug-investigating organizations to combat that problem. Working with Operation Unite and KSP is a great partnership. We are all part of a team. Seek funding to combat the drug problems and stay proactive.

### TRAINING

It's a calling to be in law enforcement. It is important to stay up-to-date on various topics, training and education. My officers attend the required training each year. I attend the Kentucky Sheriff's Conference every year and bring back what I have learned and share with my staff. I heard about DOCJT's Check Your 6 campaign at the KSA conference. I shared this with my staff. They must wear their vest and seat belts, slow down, be aware, incorporate fitness and show respect. We must do everything in our power to keep our officers safe.

### BEST LAW ENFORCEMENT ADVICE

Jackson County is similar to many small law enforcement communities in Eastern Kentucky. We struggle to accomplish our mission with extremely limited resources, but it is possible if we learn to work together. In order to reduce crime and improve quality of life for our citizens, we must utilize all available resources and work together with local constables, city police and Kentucky State Police. Our law enforcement family is important, and we share in successes with every part of our law enforcement team. We celebrate every victory together and create an atmosphere of pride in law enforcement that makes us all better. 🐾



## SPOTLIGHT ON: ANCHORAGE POLICE CHIEF DEAN HAYES

### DESCRIBE YOUR DEPARTMENT

The Anchorage Police Department is a five-time Kentucky Association of Chiefs of Police accredited department staffed with 10 full-time officers and four full-time dispatchers. We serve the Anchorage community of 2,500 residents and several local businesses. The department's complement of officers has more than 260 years of law enforcement experience, comprised of officers with experience from many different departments. I have officers who previously worked for the Anderson County Sheriff's Office, Oldham County Police Department, Jeffersonton Police Department, Shelbyville Police Department, Louisville Metro Police Department and Kentucky State Police. We only hire experienced or retired officers. I have many applicants from other departments who are actively seeking employment with our department.

### WHY ARE APPLICANTS DRAWN TO THE ANCHORAGE POLICE DEPARTMENT?

First of all, we have a good pay scale and benefits. Anchorage has a low crime rate and gives officers the ability to become engaged within the community, something I think all departments wish they had the time to do. Probably the biggest draw to Anchorage is working with the residents. In a time throughout the nation where law enforcement often is perceived in a negative light, nothing could be further from the truth in Anchorage. The residents give us their full support and appreciation for our service. Families routinely bring food and cards by the station as a show of respect for the job we do. After a recent officer-involved shooting, residents and businesses had blue ribbons affixed to their mailboxes within two days as a show of support to the officers. Two weeks later, John Schnatter – founder of Papa John's Pizza – hosted a cookout to honor the police department and Anchorage EMS. Several hundred residents turned out in support.

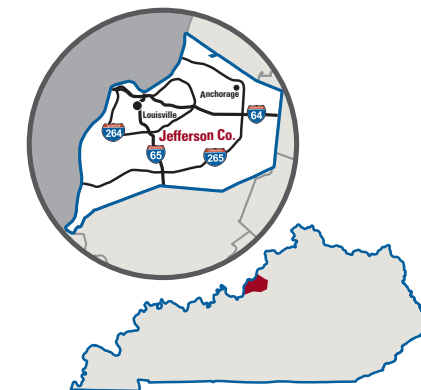
### WHAT IS THE ROLE OF THE POLICE DEPARTMENT IN A SMALL COMMUNITY?

The coined phrase, "community policing," has been around for years. We actually have the ability to implement the initiative at its core. Our department provides a service to the Anchorage residents that I wish other departments had the time and manpower to do. Our officers conduct security checks on residences when

the residents are out of town. We move delivered packages out of sight, to deter possible theft activities. We inspect parked vehicles for valuables left in plain sight. When located, we leave a crime-prevention notice on the windshield. In addition to the basic law enforcement functions provided, we are ingrained in the Anchorage school system. On a daily basis, officers walk the school grounds, attend all school functions including outdoor sports activities. I eat lunch with the kids at the school several days each week. We work hand-in-hand with administrators to improve upon emergency plans and man crosswalks for children walking to and from school.

### WHAT WAS THE TRANSITION LIKE FROM KSP TO ANCHORAGE?

Working in the Kentucky State Police is difficult because of the many demands placed upon the agency. It is made worse with understaffed posts and reduced budgets. However, the demand of service and high expectations remain constant. This situation creates a disconnect between the troopers who are trying to adequately perform their jobs and the public feeling that the police are not responsive to their needs. The transition from a state agency to a municipality has been a pleasant change. It is a much slower, methodical pace designed to meet the needs of the Anchorage residents. Because we have adequate manpower and budget, we are quick to respond to service requests and have the time to engage the residents individually to understand their needs. The officers who have worked here several years know the work patterns of the residents, the type of vehicle they drive, cars that belong in the driveway and those that don't. They even know the names of the kids and dogs. 🐾



### AT A GLANCE

**YEARS IN LAW ENFORCEMENT:** 27 years with KSP and three years with Anchorage Police Department

**CURRENT POSITION:** Chief of Anchorage Police Department

**PRIOR LAW ENFORCEMENT EXPERIENCE:** Post Commander at KSP Post 16, Henderson and KSP Post 5, Campbellsburg  
Operations major to the West Troop  
Lieutenant Colonel to the Technical Services Division  
Lieutenant Colonel to the Director of Operations Division

**EDUCATION:** Associate of Science Degree, University of Kentucky

Bachelor's Degrees in Criminal Justice and Psychology from University of Alabama

Graduate of the FBI National Academy Class No. 194



# STRANGE STORIES FROM THE BEAT



## Sweet surrender: Man arrested with doughnuts

A wanted Michigan man turned himself in after losing a bet he made with police on Facebook. The man had promised to turn himself in if a Facebook post about an existing arrest warrant received 1,000 shares. He told police that if they get 1,000 shares he would bring doughnuts. After the man turned himself in, the Redford Township Police Department posted, "We would again like to express our gratitude for the support of all who followed this, shared it, and left us positive feedback."

## Two masked men walk into a bar ...

Two would-be robbers picked the wrong day to hold up a Maryland pub. Two masked men went into the Baltimore bar with plans to rob it. As it turned out, the establishment was full of off-duty Baltimore County cops attending a retirement party for a fellow officer. The pair got the money, but the owner alerted the officers, who chased down and arrested the suspects. "I'm sure that they weren't planning on there being a large room filled with police officers," one officer said.



## Woman discovers naked intruder eating canned pineapple

A Florida woman came home to find a naked intruder in her home, eating her canned pineapple, deputies said. When deputies arrived, the suspect told them the door was open for her to go inside the home. Deputies also determined the woman took a T-shirt and ate leftover food from the refrigerator before eating the pineapple. She now faces charges of burglary and theft.



## Police deal with bull on soccer pitch

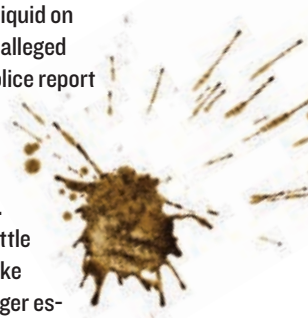


New York City police rounded up an unusual suspect — a young bull on a soccer field. The bull was herded into a police horse trailer about two hours later and headed toward rescuers on Long Island. A news helicopter video showed

the bull wandering around the field, staring back at people lined up along a fence and occasionally breaking into a jog. It's unclear where the bull came from.

## Man arrested after stinking up produce

South Carolina authorities say a man sprayed a foul-smelling brown liquid on produce at a grocery store and alleged the store owed him money. A police report says the manager called 911 after seeing the man in the store. Two years prior, he was ordered to stay out of the store. The manager saw the empty bottle with brown liquid and a feces-like odor on the produce. The manager estimated it would cost at least \$3,000 to throw away the produce and clean the cases. Investigators are testing the substance.



SEND FUNNY, INTERESTING OR STRANGE STORIES FROM THE BEAT TO [MICHAELA.MOORE@KY.GOV](mailto:MICHAELA.MOORE@KY.GOV)



## WEAR YOUR VEST

Wearing a bullet-resistant vest can save your life. It's not a foreign concept to officers, yet it is a point that requires continued reinforcement. Many officers choose to leave the vest behind because of its discomfort, or hope they'll be able to retrieve it from their trunk in case of a fire. You may never get that chance. Wear your vest.





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